

Scholars had warned that his arrest threatened to jeopardize academic exchange programs that China had carefully cultivated with the United States and other Western countries since the late 1970's.

"I say thank you to all the American people, because without them I cannot get released," Mr. Song said, his eyes brimming with tears, which he said were among the first he had shed since childhood. "During the past 30 years, I never cry, but last night I cry all night."

He was met at the airport by his wife, Helen Yao, a jewelry designer, and Senator ARLEN SPECTER, the Pennsylvania Republican who introduced legislation demanding Mr. Song's release and granting him immediate American citizenship. He also threatened to block legislation intended to make way for China's entry into the World Trade Organization.

Mr. Song and his wife, who is also Chinese-born, were detained in August in Beijing, where he had been gathering yellowing Communist Party newspapers and handbills published during the Cultural Revolution, about which he has written two books and several articles. Ms. Yao was released in November and forced to leave China without her husband.

Mr. Song said today that the documents he had been gathering were published by the radicals known as the Red Guards and that they were available at the time to virtually everyone in China. He said there was nothing secret about them.

"You can purchase all those in public markets," he said. "You can purchase those in some book stores. This is not national security."

He said he argued the point with his guards over and over again. "I strongly argue that," he said in his sometimes broken English. "My question is: If you say this is a secret and I'm leaking the secret, then you should first say all the Chinese people are spies. Because they all touched those. They all know this, not only me."

The Cultural Revolution, in which millions of Chinese were persecuted as Mao tried to consolidate his power and "purify" the Communist Party, remains a subject of extreme sensitivity to Beijing, which continues to restrict access to official archives of the period.

During his early interrogations, Mr. Song said, his guards tried to coerce him with lies. He said they told him that his wife, who was being held in a separate detention center, was gravely ill, but that she could be freed for medical treatment if he confessed to spying.

"That was the worst moment of all," he said. "They say my wife is so sick and so weak, that I should think about my wife and how she could return home quickly."

When that did not work, he said, the guards tried to convince him that his wife had implicated him in spying and other crimes against the government. "Every time they question me, they say, your wife says such-and-such, your wife identifies such-and-such," Mr. Song said.

At one point, he said, security agents told him that his wife had identified him as a member of Falun Gong, the spiritual group that has been the subject of a vicious crackdown recently, and that he had smuggled its literature into China.

"I know nothing about Falun Gong," Mr. Song said, "I say, I believe this is not true. I say, bring my wife in. But then they become suddenly silent. They said, O.K., we move on to the next topic."

He said the experience of the last several months was far worse than his experience during the Cultural Revolution, when he was arrested and branded a counter-revolutionary.

"In the 1970's, I was beaten, I was tortured," he said. "But this was worse. With physical torture, they torture only you. This time, they arrest, and they try to mentally torture my wife. As a man, you feel so bad."

Mr. Song, who has bladder cancer that is in remission, said that he had repeatedly asked to see a doctor, but that his guards refused without explanation. "My health condition is not very good, and I asked them several times if I could get doctors to examine me, but they wouldn't," he said. "As soon as I get home, I should see a doctor and get a full body examination."

As he set off from the airport after the news conference, Mr. Song was asked what he would do when he arrived home in Carlisle. He did not hesitate. "I think he will have some sweet talk with my wife," he said, his arm tightly around her shoulder.

He said Ms. Yao's confinement in China had changed her. "My wife became a very brave woman, so I'm very proud of her," he said. "Actually this is not her typical characteristic. The Chinese government, the Chinese national security police, they make a weak woman into a brave soldier."

Mr. SPECTER. I thank the Chair and my distinguished colleague from Iowa.

Mr. President, in the absence of any other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SESSIONS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

BANKRUPTCY REFORM ACT OF 1999—Resumed

Mr. SESSIONS. I believe the pending order of business is the bankruptcy bill.

The PRESIDING OFFICER. That is correct.

Mr. SESSIONS. I would like to talk about the pending bankruptcy bill and give my full and total support to the work of Senator GRASSLEY and others.

The PRESIDING OFFICER. The clerk will report the bill by title, since these will be the first comments.

The legislative clerk read as follows:

A bill (S. 625) to amend title 11, United States Code, and for other purposes.

Pending:

Wellstone amendment No. 2537, to disallow claims of certain insured depository institutions.

Wellstone amendment No. 2538, with respect to the disallowance of certain claims and to prohibit certain coercive debt collection practices.

Schumer/Durbin amendment No. 2762, to modify the means test relating to safe harbor provisions.

Schumer amendment No. 2763, to ensure that debts incurred as a result of clinic violence are nondischargeable.

Feingold modified amendment No. 2748, to provide for an exception to a limitation on an automatic stay under section 362(b) of title 11, United States Code, relating to evictions and similar proceedings to provide for the payment of rent that becomes due after the petition of a debtor is filed.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SESSIONS. Madam President, I give my total support to this bill, which is a needed overhaul reform update and modernization of an act that is very important to America. It allows people every day—over a million a year—to totally wipe out debts that they owe, to start afresh and not pay people they have legally obligated themselves to pay. It is part of our historical constitutional process. We venerate that right to start anew.

Over the past years, we also have recognized there are a number of problems with the way bankruptcy is being handled. We believe we can make it better. I believe this bill does make it better. As a new Senator who has been here only 3 years, it has been somewhat frustrating to see that we cannot quite get a final vote on the bill. At one time or another, at the most inopportune moments, there has been a group of people who have come up with objections and delays, and we have now been on this for 3 years.

It has passed this body with over 90 votes. At one time it came out of the Judiciary Committee with a 16-2 vote. We have a good, broad, bipartisan bill that improves bankruptcy law, and it ought to be passed. The objections to this legislation have only been those of the most complex and minute nature. The overall aspects of this bill are sound. It has very little opposition.

Let me point out a few things.

Bankruptcies have increased 350 percent since 1980, during a time of great economic expansion. In 1980, there were 287,000 bankruptcies filed. In 1999, as this chart shows, there were 1,300,000 bankruptcies filed. And 1999, as the President told us the other night, was a great year for Americans economically.

How is this happening? Is this necessary? Are these all legitimate? What can we do about it? That is what this bill addresses.

I believe we do need reform because of an extraordinary increase in filings.

Some are saying we do not need this bill. There was an ad run in a local Washington newspaper that said: We do not need the bankruptcy legislation; we had a 7 percent drop last year in filings; so, therefore, you should just stop all the work that you have been doing.

I thought that was a silly ad. After a 350 percent increase, we have one of the best economic years ever and had a modest decline of 7 percent, and somehow that suggests we do not have a problem with filings? We do have a problem with filings. The numbers still are well over 1 million filings per year.

There is another reason we need bankruptcy reform. I am a lawyer. I served as a U.S. attorney. I am on the Judiciary Committee. I believe that the rule of law ought to be consistent and fair, worthy of respect. I also recognize that lawyers are strong advocates. I respect that. Sometimes they get unscrupulous and abuse the system, but generally what lawyers do is

take the law we pass and use it for everything they are worth to benefit their client.

That is what has happened with the bankruptcy system. Since 1978,—the last time we had bankruptcy reform—lawyers have learned how to manipulate the law. They have learned how to do things that have in many ways abused the operation of the system. It leads to hard feelings. It leads to a sense of unfairness and frustration when people feel their just debts are unfairly, without justification, wiped out and not paid because of a technicality in the bankruptcy law. People have to spend extraordinary sums of money to litigate an issue in bankruptcy court that should be decided easily by a clearly written statute. So we do have abuse of the system. No matter how many filings there are, we need a system that is fair for the filings that do occur. That is what we have worked on in these last several years.

We have a number of basic principles. If a person can pay the debts he or she justly obligated themselves to pay, that person should pay it or at least that portion of it they are able to pay. If they are unable to pay their debts, they ought to be able to wipe them out in bankruptcy.

What we are seeing today—and I am hearing this from people I talk to all over Alabama—is people who are making \$80,000, \$90,000, \$100,000 and could easily pay back all or part of their debts are going into bankruptcy and wiping out every debt they owe. Often they are not paying the people they previously agreed to pay when they undertook the debt and got the loan or the benefits from the gas station or the automobile dealership or the furniture store. When they got those benefits, they agreed to pay them. The creditors or businesses don't make as much money as the debtors do, and they are able to go into court and wipe that out. If you think that is not happening, I can assure you that it happens every day in America. We allow that under present bankruptcy law. There is a section called substantial abuse that a judge can use to reduce the abuses under current law, but what our hearings have found is that it is totally ineffective and is almost never utilized in the American bankruptcy system today.

What we are trying to do is legislate precisely what a substantial abuse of the system is. For those who can pay a part of their debts, they ought to pay them. What could be more fair?

What we have come up with is a system called needs-based bankruptcy. That is, to the extent to which you need bankruptcy relief, you get it. But if you don't need it and can pay your debts, you ought to pay some of them or part of them. So the way the act is written, if a person can pay 25 percent of their nonpriority unsecured claims—setting aside as a priority child support and alimony—if you can, after paying

that, pay 25 percent of your nonpriority unsecured claims, then you ought to pay those or \$15,000, whichever is less, and we give the debtor 5 years in which to pay that. That is the kind of thing I think is the right step.

To have a bright line rule and to try to make sure we are not clogging the court with too much work, and that we are having a fair system, we have in the act provisions that say, in effect, that if a person makes above the median American income, they can't be forced to pay back some or all of their debt. They can still file, as they always have, in straight bankruptcy.

For example, a family of four who makes \$44,000 is making the median income in America. If they are making \$43,000, the presumption that they ought to and they can pay back some of their debt, does not apply to them because they will be making below the median income. So the new rule change only affects those who are making above the median income in America today. We think that is fair and reasonable. If you are making above the median income and you can pay back some of your debts, many times to people who make less than you do, you ought to pay those debts. I think that is a good step in the right direction.

There are a number of other abuses in the system. I mentioned child support and alimony. Under current law, half a dozen categories of debt are given repayment priority over child support and alimony. The sponsors of this bill, Senators GRASSLEY and HATCH, made clear at the very beginning we were going to move child support and alimony up to No. 1—there would not be any debate about that—even higher than lawyers fees. Of course, the lawyers are not too happy about that, but that is what we think about it: child support ought to be tops. So how anybody could go around and suggest, as some have, that this legislation is unfair to women and children is beyond my comprehension. It is baffling to me. I wonder how anyone can make that complaint and not be doing it with the most deliberate intent to smear this legislation. I think they need to read the bill.

It gives the highest, unprecedented priority to child support. If an individual files bankruptcy and they owe alimony or child support, the moneys they have will go first to pay alimony and child support before it even pays the lawyer and the bankruptcy trustees.

I know that Senator GRASSLEY felt strongly about another reform in this bill. Many of the people who are owed money, creditors, by people who have filed bankruptcy get a legal notice that they are to appear in court. They have to go out and hire a lawyer to send them to the courthouse and fight over a \$2,000, \$3,500 claim. Oftentimes the lawyer's fees cost more than the person actually collects. This legislation makes clear that if you have a claim, you can go to court and represent yourself without having to hire a lawyer.

I am quite confident that in most cases for smaller claims the bankruptcy judges are going to give a fair hearing to those people. Many times they will not need to hire an attorney to represent them in bankruptcy court. That is going to save a lot of money, in my view, for people who need it and don't need to be wasting it on unnecessary court hearings and fees.

There has been a real problem with repeat filers. People are repeatedly filing in bankruptcy. That is extraordinarily frustrating to people who observe the system. We have a Federal bankruptcy commission made up of Federal judges and top bankruptcy experts that has expressed its concern about these repeat filings. We have good provisions that will eliminate some of the abuses in repeat filings, something that is long overdue.

I felt strongly about, and debated with Senator KOHL and others, the reform of the unlimited homestead exemption. In several States—Texas, Florida, for example—no matter how much money you owe, you can keep your house, no matter how valuable that house is. It is quite clever that some people realize this and go out and buy multimillion-dollar mansions, pour all their assets into those homes and call it their homestead. Then they go bankrupt and don't pay their accountant, their doctor, their lawyer or anybody else, and they are sitting in a multimillion-dollar home. That is not right. Why should people who are living in modest houses not get paid by somebody who is living in a house worth several million dollars? We have had hearings about that. We have newspaper articles that actually identify people by name who have moved to Florida, moved to Texas, buy these mansions, and don't pay the people they owe. So we have at least capped that exemption at the level of \$100,000. I think that is a bit high. However, the States can lower it. Some States have \$15,000 as all you can keep in a homestead; others have \$50,000. But the maximum now is \$100,000, instead of just allowing quite a number of States to have unlimited homesteads. In fact, they will do things such as move out of a State where they owe a lot of debt, pump all their money into a homestead in another State, declare bankruptcy, and pay nobody back home where they left. That is an abuse we have eliminated in the legislation as it is today.

We had a common problem with landlord-tenant. If anybody has managed an apartment duplex, or maybe has had a garage apartment or a few housing units, and rented those, you know how difficult the eviction process is. Each State in this country has a complex system of eviction procedures so that tenants cannot be unfairly removed from their premises. Sometimes these laws are pretty complex and it takes a good bit of effort before somebody can be removed if they don't pay their rent, or if they are using drugs on the premises, or destroying the property, or disrupting the neighborhood. It is very

difficult sometimes. But there is a procedure for it, and you can go to State court and evict someone.

We are finding that lawyers are running ads in the paper such as this: "Seven months free rent. Call me if you have a problem paying your rent. We guarantee you can live rent free for seven months." We have ads on that: "Seven months free rent, 100 percent guaranteed in writing. We guarantee you can stay in your apartment or house 2 to 7 months more without paying a penny of rent."

How can they do that? They are doing it because they get the person in and tell them to file bankruptcy, and usually they tell them to wait until the last step of the eviction process is about to be taken in State court, when the judge has heard the case and they are about to rule that you can be evicted, presumably. Then they file for bankruptcy.

What happens when you file an action in bankruptcy? It stays, or stops, automatically, all the proceedings in State court. So this stops the eviction proceeding, no matter how close it is to finality. And then the poor landlords—who opponents of the bill like to suggest are usually big wealthy people, but normally most of the landlords in America have smaller units of housing and don't have legal staffs and an ability to respond—now they have to go to bankruptcy court. The case is docketed, the judge sets a hearing, and somebody asks for a continuance, and they have to hire a lawyer. Now the tenant is fussing and saying he wasn't using drugs anyway and should not be kicked out. Now we have another trial going in Federal court over whether or not this person should be evicted. We found that, in California, 3,886 bankruptcy cases were filed simply to stop eviction proceedings by the sheriff's office in Los Angeles. That is an astounding number from just one county in America. It is this kind of ad that generates this kind of action.

I don't know for sure, but a lot of these people probably didn't need to file bankruptcy, but we are giving them a priority and advantages that other people who don't file bankruptcy don't get. It seems to me that, in effect, we are saying to a landlord: You have to be a private charity. You have to let this person stay in your premises for 7 months without paying rent before we can get him out of there, and we in the law can't do anything about it. That is the way the law is written.

Well, it is our job as Senators and Members of Congress to fix laws that have those kinds of loopholes. We are going to fix that one. We are not going to have that kind of abuse continuing to occur in America. It is not right. It is our responsibility to end this abuse. You can blame the lawyers all you want, but if the law allows them to do it, they can do it. It is our job to make the law, not the lawyers who are using it.

We have another idea that I thought about and believe in strongly. I have

visited, in my hometown of Mobile, AL, a credit counseling agency. I spent nearly a full day there. These agencies are in existence virtually in every town in this country. They are very popular. People, more than you know, have financial troubles. It is the leading cause of family breakup in America—financial disputes among spouses. What we need more than we need bankruptcy relief in America is a system to encourage people to be good money managers, to recognize what their income is, to set a budget, and have the whole family agree to it and stand by it. When that occurs, we can avoid many of the problems we now see.

I will note that I don't dispute at all that quite a number—perhaps well over half of bankruptcies that are filed—are filed because of things beyond people's ability to control. Maybe it is because of an automobile accident, or a serious medical bill, or a business failure, or maybe a mental illness or something else in the family. So there are reasons. But for a large number of Americans, they don't need to be this bad off in this time of economic growth. A lot of it is just a simple inability to understand how to manage their money.

A credit counseling agency will bring the entire family in, and they will sit around the table and prepare a budget for the family and help them agree to it and have them sign that agreement. They will help them decide what debts to pay first. The credit counseling agency will call creditors demanding payment and say: We are here working with this couple. If you will give us 3 months to take care of some other bills, we will start paying you. We will start paying you so much a month, and we will pay this debt down. Give us that chance.

Creditors are able to do that on a regular basis. They work out things for these families and help them to not only avoid bankruptcy, they help them to pay off their debts and help them to generate a lifestyle of good money management, which will continue in the future and perhaps cause them to avoid filing bankruptcy again in the future. We like that idea.

Our legislation says that before you file bankruptcy, you must at least visit and talk with a credit counseling agency to see if they may be able to help you with an alternative to bankruptcy. Frankly, lawyers are not doing that. Basically, what is happening with lawyers today is, they are running ads in the paper, and people are coming in and meeting with paralegals who fill out the form, and they file the bankruptcy; they tell them how much the fee is going to be, and then they tell them how to get the money for the fee, to use credit cards and everything else, and don't pay any debts, take the money you make and give it to me as a lawyer fee, and I will file for you as soon as the money is there. That is basically what is happening. It is not good. We need to be concerned about families and try to get them on the

right track of thinking about financial obligations and the need to repay them.

So there are some other matters in this bill—many more matters of great import. I am excited about it. I think it is overdue. I want to express my appreciation again for the leadership of Senator GRASSLEY. He has steadfastly, fairly, and in a bipartisan way, worked to move this bill to final passage.

I am convinced we are on the verge of that now. I thought we were previously. It slipped away from us. But we passed it twice in this body I think with overwhelming votes—one time, I believe with only one "no" vote.

We are going to pass this bill. It is a good bill. It will make our bankruptcy system a form of Federal court in which people who are unable to pay their debt can choose to go in and have those wiped out.

We are going to create a system that is better than the current system. The vast majority of filers will be able to wipe out all of the debt like they always have. But for those who can pay, they ought to be made to pay some of it and to allow the other abuses and costs that go with it to be eliminated.

Attorney fees and litigation can be eliminated. Some people are going to find maybe there is an alternative through a credit counseling agency rather than going through the process of filing bankruptcy. I think that will be a good step.

I am proud to have worked on this. I am proud to have worked with Senator GRASSLEY, whom I admire so greatly. I look forward to final passage and signing by the President of this important legislation.

Thank you, Madam President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Madam President, in a few moments, I will ask unanimous consent to proceed to the nuclear waste bill. However, I will withhold that request until Senator REID is able to reach the Chamber. I thought while we were waiting on his arrival I would go ahead and make some remarks about this very important legislation.

We will, for the information of all Senators, continue to work tomorrow on the bankruptcy reform package and the amendments that have been agreed to. We hope to make good progress tomorrow. We will have recorded votes on Tuesday, but as to exactly when we will be able to finish it will require some communication with both sides of the aisle. It could be that we will not be able to finish until sometime Wednesday. After that, of course, we hope to be on the nuclear waste issue.